

Commission Recommendation No. 4:

Concerns have been raised about the Commission requiring CLECs to obtain right to use licenses, where necessary, when leasing UNEs.¹ Under the current UNE rates, the Commission believes the right to use decision made in the mega-arbitration is appropriate. However, the Commission invites CLECs to seek a UNE-Right to Use adder. This adder would compensate SWBT for costs associated with right to use arrangements. For CLECs choosing to pay the cost-based adder, SWBT would agree to provide the right to use arrangements as a wholesale function. For CLECs choosing not to pay the adder, the Commission's position in the mega-arbitration would apply. The parameters of this issue shall be negotiated in the collaborative process.

SWBT's Proposal:

SWBT committed to acting on behalf of any requesting CLEC the negotiations with vendors.

SWBT also raised concerns regarding other proposals: (1) regarding the AT&T/MCI proposal, SWBT raised concerns regarding SWBT's having to pay for a portion of the CLECs right to use fees when SWBT had to pay 100% of its own right to use fees, (2) regarding the proposal presented by Staff at the work session, SWBT raised concerns that while the proposal was theoretically fair, it would not be practical and could require a new costing docket, (3) regarding the indemnity protection option, SWBT had a lesser opposition.

Supplemental Information:

SWBT proposed an indemnity and warranty plan, including proposed alternative language indemnifying SWBT against claims when a CLEC uses network elements.

CLECs' Comments:

AT&T/MCI proposed a right-to-use fee sharing mechanism. Under this proposal, parties would share in the additional right to use fees. CLECs opposed SWBT's negotiation offer and the indemnity provision proposal but appeared receptive to Staff's "enhancement" to the AT&T/MCI proposal.

Supplemental Information:

AT&T and MCI continued to advocate the UNE adder mechanism with all LECs sharing in the recovery of right-to-use costs. AT&T cited to the DOJ's recent evaluation of the issue in the context of SBC's application to provide in-region interLATA services in Oklahoma, which stated that SBC's handling of the intellectual property issue puts the burden and the risk solely on the CLEC seeking to use its UNEs.

Staff Recommendation and Follow-Up:

This issue needs further development at a future collaborative session.

¹ The issue of the rights of third party vendors is currently pending before the FCC.

Supplemental Staff Recommendation:

In the DOJ's recent evaluation of the IP issue in the context of SBC's application to provide in-region interLATA services in Oklahoma, DOJ had "serious concerns about SBC's limitations on the availability of UNEs in its SGAT, which requires parties interested in taking UNEs to provide indemnification for any infringement of IP rights that may result from combining or using services or equipment provided by SWBT. . . ." Evaluation of the United States Department of Justice, Application of SBC to Provide In-region, InterLATA Services in Oklahoma, Federal Communications Commission, pp. 65-66 (May 21, 1997). The staff of the California Public Utilities Commission recommended in its Final Staff Report that "Pacific has the obligation to obtain any necessary RTU agreements on behalf of CLECs, at least for all instances in which the CLEC's usage of the intellectual property is the same as Pacific's." Final Staff Report, Pacific Bell (U 1001 C) and Pacific Bell Communications Notice of Intent to File Section 271 Application for InterLATA Authority in California, California Public Utilities Commission, pp. 93-102 (October 5, 1998). The CPUC further noted that CLECs should pay no further fees for those RTU agreements, since Pacific had already included some RTU costs in the rates it was charging to CLECs for the UNEs. Id.

In the UNE rates under the mega-arbitrations, right to use (RTU) fees as related to generic software of a switching facility are included in the capital investment, whereas any upgrade to the software is expensed; therefore, Staff can conclude that RTU expenses associated with upgrades of switching system software are not included in the UNE rates.

Met if SWBT agrees to the following:

UNE-Right to Use adder. This adder would compensate SWBT for costs associated with right to use arrangements. For CLECs choosing to pay the cost-based adder, SWBT would agree to provide the right to use arrangements as a wholesale function. For CLECs choosing not to pay the adder, the Commission's position in the mega-arbitration would apply.

While SWBT would have to pay for a portion of the right to use fees for future equipment, CLECs will also have to pay a portion of any right to use fees on previously purchased equipment. At the November 16, 1998 open meeting the Commission requested SWBT and the participants to file proposed right to use adder fees and underlying methods for determining such fees for unbundled switch port and other UNEs as required.

On a prospective basis when SWBT purchases new equipment/software it shall receive an explicit statement that the equipment/software is purchased on a multi-user basis.

CHECKLIST ITEM THREE: Has SWBT provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by SWBT at just and reasonable rates in accordance with the requirements of section 224 of the Communications Act of 1934 as amended by the FTA96 pursuant to 271(c)(2)(B)(iii), and applicable rules promulgated by the FCC?

Commission Recommendation:

If SWBT implements the Commission's recommendations in the **public interest** section above, and the **OSS** and **performance standards** sections addressed below, the Commission believes SWBT will meet this checklist item.

SWBT's Proposal:

SWBT developed performance measures intended to measure parity performance in the areas of poles, ducts, and conduits (under Performance Measure Recommendation No. 11(2)). The measures state:

The percent of requests for access to poles, conduits, and right-of-ways processed within 35 days. Reported for individual CLEC and all CLECs. SWBT's objective is 90% of requests answered within 35 days.

The average time it takes to process a request for access to poles, conduits, and right-of-ways. Reported for individual CLEC and all CLECs.

CLECs' Comments:

CLECs agreed that SWBT's performance measure will measure the existence of parity performance. An issue was also raised concerning how to handle situations when not space is available.

Staff Recommendation:

Met except for the overlapping OSS and public interest issues which relate to all checklist items.

A proper performance measurement has been developed. (Staff notes that although this recommendation and therefore checklist item has been resolved, issues relating to non-availability of space are being handled in the public interest section.)

CHECKLIST ITEM FOUR: Does the access and interconnection provided by SWBT include local loop transmission from the central office to the customer's premises, unbundled from local switching or other services in accordance with the requirements of section 271(c)(2)(B)(iv) of FTA96 and applicable rules promulgated by the FCC?

Commission Recommendation No. 1:

SWBT shall publish a technical manual showing CLECs how to use the unbundled loops to provide Asymmetric Digital Subscriber Line (ADSL) and High-Speed Digital Subscriber Line (HDSL) services. Spectrum management of available cable space shall be conducted by SWBT in an expedited manner, upon request from a CLEC who intends to use the unbundled loop for high speed ADSL and/or HDSL services.

SWBT's Proposal:

1. SWBT provided the following ADSL technical publications: ADSL Based Service Network Interface Specification, TP 76330, Issue 3, July 1998, and Unbundled Analog, Asymmetrical Digital Subscriber Line, and Digital Facilities, technical interface and performance specifications, TP 76860, Issue 2, June 1998. Moreover, this publication will be updated with the revised ANSI standards (T1.413) before the end of September. The HDSL publication will be provided to all parties after it is published. The document T1 E1.4/98-030, which addresses spectrum compatibility, has been ratified by the committee and it will be out in 30 days.
2. Standard allows both Frequency Division Multiplexed (FDM) and Echo-Canceled (EC) types of ADSL. The modulation techniques that are recognized by the standard include Discrete Multi Tone (DMT) and Carrier Amplitude Phase Modulation (CAP). SWBT believes the FDM-CAP-type of ADSL used by COVAD will not be a problem since CAP is moving closer to the range developed by ANSI, *i.e.*, CAP and DMT will both work with the "masks" developed by SWBT in accordance with the upcoming ANSI standards for Spectrum Management.
3. However, echo-canceled ADSL does interfere with other echo-canceled systems such as ISDN, TI-AMI, SDSL, and HDSL.
4. SWBT will employ the same manual process for qualifying ADSL loops as part of the spectrum management process that it uses for itself. Information regarding the availability of a loop for ADSL will be provided within 48 hours; the same time that SWBT has been giving its retail side during its ADSL trial. If that time period is reduced as SWBT gains greater experience, the time will be similarly reduced for CLECs.
5. Apart from this recommendation, there was some discussion about the bona fide request process being available when a CLEC does not have adequate terms for a new service.
6. SWBT concurs with COVAD that Near End Cross Talk (NEXT) is more problematic than the Far End Cross Talk (FEXT) in terms of interference with other digital services provided over copper wires of the same binder group.

7. UNE digital loop rates do not include ADSL conditioning and spectrum management costs.
8. SWBT clarified that the 4-wire digital UNE and rates may be used for an HDSL loop.
9. SWBT will provide the results and the associated data of its ADSL trial to all parties for further discussions on the spectral compatibility issue. This information will be provided five days before the meeting to be held with all industry representatives and the Commission staff.

Supplemental Information:

SWBT provided an initial summary of its meeting with the parties to discuss spectrum management issues, and Binder Group Management Issues. SWBT stated that it is investigating whether or not it is possible to move the threshold distance limit of 8,000 feet to 12,000 feet to allow Unbundled Loops to be used for providing xDSL services without any restrictions. SWBT held an industry-wide meeting in San Francisco, on October 27, 1998 to explore issues related to other DSL services.

SWBT stated that it does not have adequate data from its trial to offer to parties. However, its policies as to spectrum mask, and binder group management are based on the trial in the laboratories operated by SBC's research group, Technology Research Institution (TRI).

SWBT reiterated that it will not allow echo-canceled ADSL systems. SWBT stated CAP and DMT systems are allowed. SWBT stated that it plans to implement a separate binder group in the feeder portion of its network for handling DSL services.

SWBT stated that if an existing loop is at a distance less than 8,000 feet, it falls into the "Green" category, meaning no restrictions for providing CAP or ADSL services that meet the ANSI standard T1.413 specified spectrum mask, with an exception for echo-canceled type ADSL.

SWBT stated that ADSL will not interfere with POTS service.

SWBT stated that it will be able to provide loop lengths through MLT testing, with a caveat that the results of MLT test may yield a longer loop length than the actual. SWBT will follow up on whether or not a CLEC can access the MLT and loop characteristics through its electronic OSS interface.

SWBT stated that if loop lengths are between 8,000 and 17,500 feet, SWBT will not guarantee any minimum or maximum speed for ADSL services.

SWBT stated that the mathematical model gives the best possible arrangement, as opposed to going out into the field where you get real live tables that are not as good as the mathematical model.

SWBT stated that the rationale behind the binder group management will allow a CLEC or SWBT to reach the most customers at the highest speed.

CLECs' Comments:

1. COVAD: CAP and DMT should not be deemed to be mutually exclusive.
2. COVAD: does not have a problem with SWBT's position on "echo-cancellation," but objects to the process not being open since future unilateral decisions by SWBT could be harmful to COVAD and other CLECs.
3. COVAD and MCI want to participate with SWBT as SWBT develops its loop qualification procedures. MCI suggests that these determinations are somewhat subjective since there is the potential of moving the cable that is being interfered.
4. COVAD provided mathematical models of interference for numerous scenarios, such as ISDN, TI AMI, SDSL, RDSL, and HDSL services being provided with ADSL through the copper pairs of the same binder group. A copy of a technical paper titled, "Spectral Compatibility of DSL systems," by Massimo Sorbara, was distributed to all parties.
5. COVAD stated that: 1) ADSL works with voice on the same line; 2) ADSL is compatible with ADSL; and 3) ADSL causes less interference for ISDN than other ISDN lines in the same binder group.
6. COVAD and MCI stated that SWBT must not unilaterally impose policies, SWBT must share studies and information, SWBT must be technologically neutral, Spectrum Management Programs should not "ration" loops, CLECs need advance notice of network changes, and that everyone uses the public switched network and the network needs to be managed together.
7. TISPA raised an issue about ISPs being prevented from obtaining dry wires to do xDSL. TISPA argues that they used to be able to use such loops to provide ADSL. SWBT responded that: (1) this is an end-user issue, not 271; (2) its ISP affiliate has the same restrictions; and (3) the restriction is related to spectrum management.

Supplemental Information:

MCI stated that it would like to have the criteria and the supporting data behind SWBT's decision for placing distance limitations and instituting a binder group management policy.

CLECs are concerned that the binder group management policy (1) will unnecessarily raise costs, (2) may result in unavailability of unbundled loops, and (3) may result in service interruption to an existing customer if SWBT decides to move an existing ADSL loop to a separate binder group.

ACI stated that it has made significant progress in its negotiations with SWBT to obtain ADSL loops. MCI stated that they are pleased to hear that SWBT is developing a wholesale product for ADSL. COVAD stated that although they are encouraged by SWBT's willingness to consider mathematical models, they have not received anything from SWBT to indicate what model they might be following or whose research they are following.

Staff Recommendation:

Needs follow-up. Staff finds that Echo-Canceled ADSL systems interfere with other echo-canceled and non-echo canceled systems, thus reducing the reach of the DSL services. Staff finds that SWBT should provide the revised technical documents that reflect ANSI standards. SWBT will hold a meeting by mid-October to provide information on its ADSL trial. CLECs can make recommendations as to other issues that should be on the agenda including, but not limited to, facility availability criteria and spectrum management. Staff also recommends that SWBT should allow CLECs to participate in the decision-making process as it relates to exclusion of services through UNE loops with respect to spectral interference.

Follow-Up:

CLECs to supply written details of issues they wish to address during the October meeting with SWBT.
Written status reports on Spectrum Management meeting.
SWBT to provide updated ADSL manual and HDSL manual.

Supplemental Staff Recommendation:

Staff recommends, based on SBC's representations at the California meeting, that SWBT should increase the threshold from 8,000 ft. to 12,000 ft. before a recommendation can be made that it has met the Commission's recommendation. (For PacBell the threshold is 12,000 ft.) SWBT should also develop its wholesale offering in an expedited manner. SWBT should provide access to MLT testing in the same manner as it has access in its retail offering, in order for a CLEC to obtain loop characteristics.

Staff recommends the use of power spectral density (PSD) as one component of a sound spectrum management plan designed to minimize service-to-service interference. Staff further supports limiting permissible equipment/technologies to only those which comply with national standards for PSD masks. The prevailing standards are those of the ANSI T1E1 committee and the international ITU-T Study Group 15, Question 4.

Staff concurs that spectral management procedures for advance planning and minimum noise interference between all services are necessary. Staff notes that the placement of compliant emerging services, such as xDSL is necessary to provide high speed data connectivity in the evolving information age. Staff also believes that the ILEC is currently in the best position to perform the spectral management function for its copper cable plant. However, this responsibility does not bring with it a unilateral decision-making authority with respect to spectral management procedures. The Spectrum Management process must encompass an industry-accepted definition and not a local ILEC's interpretation of Spectrum Management requirements. The Spectrum Management process must include a clear definition of trouble resolution and rectification, including a procedure that will create additional available cable spectrum when existing cables reach their design fill.

Because of the potential widespread implications in early stages of xDSL implementation, it is necessary to assure the best interests of all parties are served to the greatest extent possible. Accordingly, Staff recommends that SWBT should modify its spectral management process by including CLECs in the decision making process. The Staff-recommended process as described below will allow for better utilization of the copper cable plant and permit the advanced data services market to reach its fullest

potential, thus achieving a positive result without increasing the burden upon SWBT and with minimal existing customer service disruption.

As with implementation of any "new technology," management and upgrading of the existing base is an issue. This issue must be dealt with, not so much because of spectral interference between PSD mask compliant services, but because previously placed services within the cable, particularly repeater-based T1 services (i.e., non-HDSL service) would present and experience cross-talk interference. As a result, the spectrum management procedures must make provisions for migration of this type of service to its own binder group, in accordance with prevailing T1 standards. Staff notes that SWBT is currently maintaining a separate binder group for T1 services. 4-Wire HDSL services can also co-exist in the same binder group as the T1. As this activity will cause service disruptions, it would need to be undertaken on a scheduled basis with advanced customer releases well in advance of the expected exhaust of xDSL capable pairs within the cable. Staff notes that the new xDSL services should be afforded the maximum growth opportunity, which is not afforded in the current SWBT proposal.

Staff observed that the SBC Spectrum Management proposal, as stated during the work session held in California, attempts to address the inside (intra-office tie) cables in the ILEC Central Office (CO). The SBC proposal requires shielded cable to be exclusively installed by SBC at an additional cost to the CLECs. Staff proposes that, at the choice of the CLEC, shielded cable, high twist copper, standard twisted pairs, or other reasonable transmission media be provided between the Main Distribution Frame (MDF) and the collocation space of the CLEC. Staff concurs with the CLEC Coalition that the CLEC should have the option to furnish such cable to be installed by SWBT, on a virtual collocation basis, between the MDF and the CLEC's collocation space. In the alternative, if a CLEC wishes to install this cable SWBT should permit such installation in the presence of an escort, or SWBT should extend such cable to the cageless collocation area. Only 50% of the cost associated with the security measures should be paid for by a CLEC. SWBT shall be required to provide site access and all information necessary to properly engineer the work available without any undue delays.

Staff recommends that as a part of spectrum management, SWBT maintain an inventory and be able to report on the existing services provisioned on the cable, and manage the spectrum in a non-discriminatory manner regardless of whether the service is provided by a CLEC or by the ILEC. Staff recommends that the spectrum management procedures be applied in a nondiscriminatory manner, and where disputes arise, such disputes shall be resolved in a timely manner. As a part of the dispute resolution process, Staff recommends that the involved parties should be able to audit in order to examine the deployment of services within the affected loop plant. In addition to Spectrum Management, Staff recommends that SWBT should provide parity access to general loop qualification as a part of the preorder process in obtaining unbundled loop. Staff recommends that SWBT immediately meet with the CLEC community to identify how and in what timeframe the required level of detail will be provided to the requesting CLEC, allowing the CLECs the same nondiscriminatory access to a loop's technical makeup and data as SWBT experiences. Staff also recommends that SWBT establish cost-based nonrecurring costs for such loop qualification data. Staff recommends an interim rate of \$2.56 subject to refund or surcharge upon the final approval of the rates.

Staff Recommended Spectrum Management Proposed Process:

1. *SWBT will maintain separate binder groups for interfering legacy services, e.g., repeater-based T1s, according to an appropriate prevailing standards body, e.g., ANSI T1E1.*

2. *A transition plan should be instituted to move repeater-based T1 services to a separate binder group in order to accommodate xDSL based services or migrate to a non-interfering technology. Other legacy technologies (such as ISDN) that impact or can be impacted upon by new xDSL technology deployment should have a similar plan for replacement or movement to dedicated cables.*
3. *All pre-existing repeater-based T1 services and non-standards based xDSL services in a cable, that cannot be shown to operate within the parameters of PSD established by a generally recognized standards body, must be placed in a separate binder group within 5 years unless no requests have been denied for placements of new xDSL service and no service degradation is experienced by existing xDSL services within the cable.*
4. *Assignment or rearrangements to the designated binder group shall be made so that the fill rate of the dedicated binder group reflects maximum levels recommended within prevailing T1 standards. After the 5-year period expires, no xDSL assignment may be denied, due to spectral interference unless all services have been rearranged and the designated binder groups for the non-conforming services reflect efficient fill rates.*
5. *Any repeater-based T1 service, or non-standards based xDSL service, that is not located within the designated binder group, which is affected by a repair, maintenance or grooming activity, that reasonably permits rearrangement to the designated binder group, shall be moved to the designated binder group at that time. Within a five-year transition period most non-conforming services should be migrated to the designated groups.*
6. *On a going-forward basis, no digital service may be assigned within a cable unless it demonstrates compliance with approved PSD established by a generally recognized standards body.*
7. *Assignment of conforming services shall be on a random basis within the cable and within binders, provided that no assignments of xDSL services shall be made to binder groups containing repeater-based T1 or non-conforming xDSL services, without adequate notice to and input from a CLEC acquiring the loop.*

Staff also recommends that SWBT should inform CLECs as to how it will address the following during future user group meetings to be held on a monthly basis:

1. *Loop Qualification Data for various spectrum masks as they become available through a national standard making body (T1E1, or ITU).*
2. *Presence of digital loop carrier between the customer's network interface device and the point of termination for the CLECs collocation space. If DLC is present what type?*
3. *Presence of intervening active or passive electronics on the loop?*
4. *Presence of bridge taps on the loop? If so, what are the locations, length and gauge of each?*
5. *Total loop resistance measured in ohms?*

6. *What is the overall quality of the loop? To the extent that the ILEC keeps records that permit the CLEC to understand the quality of the loop, they should be provided. This includes any overall quality indicator that may be retained with the loop record, even if it is subjective in nature. Likewise any baseline test results recorded for the loop and/or any history of trouble tickets logged for the loop under consideration should be made available.*
7. *How many "disturbers," based on the list in T1.413 Issue 2, are present within the same binder group in which the loop (under consideration) is located and what is the nature of each disturber?*
8. *What loop design strategy was used for the loop? (E.g., Resistance Design (RD), Long-Route Design (LRD) or Unigauge (UG), which were largely employed prior to 1980, and Revised Resistance Design (RRD), Modified Long-Route Design (MLRD) and Concentrated Range Extender with Gain (CREG), which are employed primarily on a going-forward basis.)*

Staff also recommends that SWBT should not delay UNE loop offering for xDSL services in any exchange or wirecenter because of its own delay in its retail offering.

Supplemental Follow Up:

SWBT should file a written update on the supplemental recommendations by December 1, 1998.

Commission Recommendation No. 2:

SWBT shall also allow 4-wire HDSL service on an unbundled loop, provided the subscriber to such service has adequate cable or channel capacity or other means to place 911 calls from the same location.

SWBT's Proposal:

SWBT agrees to incorporate this 911 protection into its implementation process.

CLECs' Comments:

CLECs agreed that 911 services need to be available.

Staff Recommendation:

Met. Staff also clarified that wireless technologies shall not be considered an adequate means to place 911 calls unless they are ALI-capable.

Commission Recommendation No. 3:

SWBT must demonstrate (1) it is complying with its development/reporting obligations for digital subscriber loops and (2) that CLECs using recombined UNEs will have access to mechanized line testing (MLT) at parity with SWBT before the Commission can recommend that SWBT be found to have met this checklist item. Moreover, to the extent SWBT provides virtual collocation of the cross-connect and/or disconnection by recent change order, the MLT issue may be resolved. (Subsection numbers were added for clarity even though they were not contained in the Commission-approved recommendation.)

SWBT's Proposal:

1. Provided the report required in the first mega-arbitration. (That report was filed by ACSI in the 271 hearing). Will file an updated report consistent with SWBT's ADSL trial.
2. SWBT will provide the recommended MLT capability when the CLEC does its own combining. However, it was SWBT's understanding that information will be required from the requesting CLEC so SWBT can populate the appropriate database.

Supplemental Information:

SWBT stated that when a CLEC combines UNE port and loop MLT testing capability is not available. However, when SWBT combines the UNE loop and port access to MLT test is available. In order to have the MLT testing capability, the information related to loop and port should reside in the LMOS database. When a CLEC originates a loop and port order the information related to the identification of the loop and port are entered into WFA database. The MLT testing capability of a switch does not interact with the WFA database.

SWBT also stated that there is nothing that would prohibit a CLEC from installing their own testing equipment, in order to have the capability for them, when any of the five SWBT proposed combining methodology.

SWBT stated that the MLT might not be used to qualify loops for providing ADSL or any xDSL services. SWBT stated that their ADSL people were not present during the October 13 work session and therefore they could not provide any answers.

On October 7, 1998, SWBT stated, in the ADSL forum, that a CLEC who wishes to use UNE loop to provide ADSL services might use MLT testing to qualify or obtain loop lengths. Although the loop length information obtained via MLT may be greater than the actual loop lengths, the issue of qualifying the loop will not be adversely affected. SWBT said they do not agree to develop a new service order process called UNE-A which associates a loop order with a switch port indicating both the circuit ID and the office equipment ID and thus enabling the MLT capability.

SWBT confirmed that when a loop and port is purchased by a CLEC regardless of who does the combining the ALIT capability would not be affected.

SWBT stated that the national standard has been issued from ECIC for testing. SWBT will have those implemented into their electronic bonding interface by the end of this year. The actual release date is in

the mid-November time frame. Currently, SWBT has an electronic bonding interface up with MCI and MCI would be able to send across the message set with a ten-digit telephone number and they would perform that test on either a resold POTS or on a UNE loop and port.

On November 4, 1998, SWBT faxed a letter providing additional information on MLT testing. SWBT stated that the software updates to the LMOS MLT software for Local Number Portability have enhanced the system to allow a test against the telephone number without having a line record in LMOS and without knowing the loop facility information. SWBT anticipates having this MLT testing functionality available by March 31, 1999. SWBT stated that this functionality will allow a CLEC the access to MLT testing on UNE Port and Loop Combinations where CLEC combines the elements.

CLECs' Comments:

1. e.spire contends that the report provided pursuant to the first mega-arbitration was not complete in all material respects. However, e.spire will work under the assumption that the follow-up report will address these deficiencies.
2. CLECs raised some concerns about the need to provide additional data to SWBT. In other words, if a CLEC provides a loop and port order, SWBT should have the information in its database to coordinate the specific loop with the specific port.

Supplemental Information:

AT&T stated that the issue with the MLT for loop and port combination orders requires construction or building of a new database that would interact with the MLT capability of the switch. If such a database is constructed the CLECs will have access to do MLT testing when they do there own combining. It is CLECs understanding that it would not be the case and therefore, the quality of the loop and port UNE when combined by a CLEC will not be in parity with SWBT-combined loop and port. AT&T stated that it will file information concerning this issue when it has had an opportunity to contact its subject matter experts.

AT&T stated that a due date should be established for SWBT to respond on UNE-A associated orders where the loop and port orders are associated to each other. In addition, a due date should be established for SWBT to respond on the CIP issue as related SWBT combining the UNE loop and port.

MCI stated that is has concerns over obtaining information on circuit ID and the office equipment ID number in order to create the UNE-A orders. MCI suggested that SWBT should provide the OE ID and Loop ID information as part of the preorder functionality of the OSS.

e.spire stated that it would not be easy to replicate the functionality one gets with MLT by using one's own testing. The issue has to do with the industry standard, which really suggests MLT and electronic bonding. So if a CLEC wants a standardized multi-jurisdictional approach to loop testing issues it would be using MLT not doing its own box as suggested by SWBT.

Staff Recommendation:

Further development is necessary. Regarding the reporting, Staff believes it would be appropriate to wait for the revised report before making a recommendation. As to the MLT issue, further discussion is necessary when SWBT has its OSS personnel available to address the database issues.

This recommendation will be addressed at the October 13, 1998 OSS work session.

Supplemental Staff Recommendation:

Staff concurs that the quality of loop and port UNEs when combined by a CLEC will not be in parity with SWBT-combined loop and port, if access to MLT is not available. Staff agrees with e.spire that it would not be easy to replicate the functionality one gets with MLT by using one's own testing. Staff recommends that in order to meet the Commission recommendation, SWBT must do the following:

- 1. Construct or build a new database that would interact with the MLT capability of the switch. This database should be constructed and demonstrated by SWBT to ensure that the CLECs have access to do MLT testing when they do their own combining. [Based on the additional information filed by SWBT on November 4, 1998, Staff finds that if SWBT can demonstrate satisfactory operation of the MLT testing functionality during the third party testing of OSS, it will be able to meet the Commission recommendation under this option]; or*

SWBT should provide the Office Equipment (OE) ID and Loop ID information as part of the preorder functionality of the OSS, so that a CLEC can generate a UNE-A associated order for loop and port combination; or

SWBT should offer to continue combining the UNE ports for a nominal fee as stated in its interconnection agreement with AT&T and MCI as part of the CIP or any future interconnection agreement.

- 2. SWBT must provide parity access to MLT for determining the loop qualification, such as loop length, when a CLEC intends to use the UNE loop for providing xDSL services.*

CHECKLIST ITEM FIVE: Does the access and interconnection provided by SWBT include local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services in accordance with the requirements of section 271(c)(2)(B)(v) of FTA96 and applicable rules promulgated by the FCC?

Commission Recommendation No. 1:

SWBT shall be required to provide the multiplexer and the unbundled dedicated transport (UDT) as a UNE.

SWBT's Proposal:

SWBT offers multiplexing and UDT on a conjoined basis without a CLEC being required to do any combining. It does this by offering multiplexing as an option item to a UDT request.

CLECs' Comments:

CLECs raised other issues relating to the availability of multiplexing. For example, TCG asked some clarifying questions as to how the conjoined multiplexer and UDT can be ordered in connection with other offerings. SWBT clarified that the conjoined UNE can be used in conjunction with other items such as a non-dedicated conversion arrangement (that includes multiplexing) out of the virtual collocation tariff.

SWBT also clarified for MCI that as an alternative to collocation MCI can obtain an unbundled loop, unbundled transport and unbundled multiplexing as an option to the unbundled transport.

Some CLECs raised concerns about the availability of multiplexing as a separate UNE apart from the virtual collocation tariff.

Staff Recommendation:

Met. SWBT clarified that it will "provide the multiplexer and the unbundled dedicated transport (UDT) as a UNE." This commitment addresses the underlying issue of UNE combining. SWBT has agreed that there is no combining that has to be done to combine the UDT and multiplexer components.

Commission Recommendation No. 2:

SWBT shall be required to demonstrate that it is (1) complying with the order in Docket No. 18117 and (2) that it is providing two-way trunks upon request to CLECs. Although the Commission concurs with SWBT that the mere existence of a past dispute that has been resolved by the Commission does not disqualify SWBT from satisfying a check list requirement, it is necessary for SWBT to demonstrate that it is, in fact, complying with the Commission's orders. (Subsection numbers were added for clarity even though they were not contained in the Commission approved recommendation.)

SWBT's Proposal:

1. SWBT has provisioned the "cross ILEC-boundary" trunks requested by MCI and ordered by the Commission.
2. SWBT has provisioned over 41,000 two-way trunks and is actually urging CLECs to switch to two-way trunks to maximize network efficiency. There is a procedure in place to coordinate conversion from one-way to two-way that should prevent problems such as the one TCG raised even though that procedure must not have work in that situation.

CLECs' Comments:

1. MCI agreed that SWBT has complied with the requirements of Docket No. 18117.
2. CLECs agreed that SWBT has offered two-way trunks. TCG raised a concern that some of its one-way were converted to two-ways by mistake. That problem is being worked out between the companies' account representatives.

Staff Recommendation:

Met. SWBT has complied with the requirements in Docket No. 18117 concerning cross-boundary trunking requests. Second, SWBT is provisioning two-way trunks to CLECs upon request.

CHECKLIST ITEM SIX: Does the access and interconnection provided by SWBT include local switching unbundled from transport, local loop transmission, or other services in accordance with the requirements of section 271(c)(2)(B)(vi) of FTA96 and applicable rules promulgated by the FCC?

Commission Recommendation No. 1:

SWBT shall be required to expedite the design process to implement measurement capability in its switching and billing systems for terminating access/originating 800 usage data for the unbundled switch or provide sufficient evidence to demonstrate why expediting this development is not feasible. The Commission further recommends that this issue, including interim compensation solutions, be explored in more detail during the collaborative process among SWBT, the participants, and Commission staff.

SWBT's Proposal:

SWBT stated that the design and implementation for the measurement capability in the unbundled switches for originating 800 and terminating access cannot be expedited, because it is a technically complicated software development process, and that its resources for such development are limited.

SWBT stated that the scheduled date for the implementation of this capability is March 31, 1999. SWBT will provide a list of milestone dates that will get them to the March 31, 1999 date.

SWBT stated that the solution to this problem is not one that is resident in the switch, what they are trying to do is change other processes. SWBT's billing processing systems have to be modified because the switch does not produce an AMA record that identifies a particular 800 terminating access call associated with a CLEC account from a SWBT's retail end-user's account. The automated mechanism that they are trying to design and implement consists of building a dynamic table of 10-digit line numbers associated with a CLEC end user customer accounts and a look-up process that would run through those tables and the record and divert that information to access record for appropriate billing. SWBT stated that in the state of Missouri, it was agreed to that the cost of developing and implementing such a process will be recovered in a competitively neutral manner.

SWBT agreed to an October 21st conference call among the parties to discuss the interim proposal, and to file a status update on October 26, 1998.

SWBT stated that it has agreed to AT&T's and MCI's joint proposal on the interim solution, although it believes that it would result in an inappropriate crediting process. The topic that will be discussed during the 10/21 conference call will deal primarily with the true up process. SWBT also stated that it will take 30 days to implement the true up process once an agreement is reached on the interim solution.

CLECs' Comments:

MCI suggested that at least six months of data is necessary for true up calculation that will be implemented as an interim solution (AT&T concurred with MCI).

AT&T stated that it will participate in the conference call to discuss the true up process as a part of the interim solution. AT&T also stated that it is interested in some sort of a compromise solution that builds in specific incentive for SWBT to deliver the permanent solution by March 31, 1999.

AT&T stated that SWBT should have included the cost of developing a mechanism for tracking and billing originating 800 and terminating access calls as related to unbundled switching. (SWBT stated that its cost study did not assume that the functionality will be provided to a CLEC as a matter of its stated policy that they would keep the access.)

AT&T stated that the true up process should be retroactive, for example, if they have records going back to June of this year, the interim solution would apply to those.

Staff Recommendation:

Staff finds that SWBT has met this requirement subject to the following:

- 1. SWBT should provide a detailed design document, and milestone charts to all parties, subject to a protective order, to ensure that it will complete its installation process by March 31, 1999;*
- 2. Within 30 days, SWBT should file a cost recovery mechanism which includes SWBT and all CLECs for Commission approval; such recovery mechanism should be on a competitively neutral basis; and*
- 3. SWBT should file documents that indicate agreement by all parties on the interim solution; in the event there is no agreement, SWBT should agree to seek and implement the Commission's decision for an interim solution.*

Commission Recommendation No. 2:

As an alternative recommendation, in the event SWBT is allowed to provide in-region interLATA service before providing a technical solution to this problem, the Commission could recommend to the FCC that SWBT interLATA relief be limited to originating, non-800 type interLATA service until SWBT has demonstrated that it provides CLECs usage data for these type of calls.

SWBT's Proposal:

CLECs' Comments:

Staff Recommendation:

Not addressed yet.

Supplemental Staff Recommendation:

Met when Recommendation No. 1 is met.

Commission Recommendation No. 3:

If a party wishes to obtain customized routing by using line-class codes, SWBT shall be required to provide such option. The appropriate rates for such service shall be based on forward looking costs. To the extent that no CLEC is interested in obtaining customized routing by using line-class codes at cost-based rates, SWBT may still be considered as "providing" such customized routing in compliance with this checklist item.

SWBT's Proposal:

In response to MCI's allegation that it was experiencing problems in obtaining line class codes for blocking 976 or 900 blocking on existing customers, SWBT responded that this issue is not related to customized routing, and that this is simply a matter of passing a service order to assign a feature or assign that line class code to an individual line.

SWBT stated that if there is no real customized routing involved, then the line class codes that SWBT uses are to be shared by any and all CLECs.

In response to the Staff suggestion that the cost study be rerun, SWBT stated that MCI's request to include some code conversion, IntraLATA toll, and Protocol conversion is a technical feasibility issue and that it is not a simple rerun of the cost study.

SWBT has agreed to provide customized routing via line class codes in it switches in addition to AIN routing as an option.

In response to Staff's question regarding forward looking costs for Line Class Codes, SWBT stated that they have created an overall approach of using AIN to provision customized routing, because it is a forward looking and cost efficient technology. In addition, SWBT noted that the rates for provisioning an AIN-based solution were approved by the Commission. In response to the Commission's specific recommendation in this proceeding, SWBT agrees to provide Line Class Code Option on an individual request basis through an ICB, and the rates for such provisioning will be based on the actual cost incurred. SWBT stated that the cost to provide Line Class Code for Ericsson Switches is far greater than an AIN solution.

SWBT stated that they have created an ordering vehicle for line class codes by providing a list of all available line class codes to CLECs. To the extent a CLEC requests a line class code that is not in the list, an ICB process is available.

SWBT agreed that if the price that is quoted in response to an ICB is in dispute, a CLEC may pay 50% of SWBT's quoted rate, and that there will be true up based on the dispute resolution by this Commission.

SWBT agreed that it would process and respond to ICB 's as related to building Line Class codes within 30 days.

SWBT stated that if Blocking Line class Code exists in a Switch, there will not be any additional charge, however, there may be a service order charge, and an activation charge if a new order is generated.

CLECs' Comments:

MCI stated that it is experiencing roadblocks in obtaining line class codes. MCI stated that its intent is to have an option of choosing line class codes or AIN for implementing customized routing of operator services (OS) and Directory Assistance (DA), IntraLATA Toll over a dedicated trunk group out of an unbundled office, and NXX routing and code conversion. Basically, the roadblock has to do with the pricing structure of the line class codes and some technical capabilities. MCI stated that the number that was quoted by SWBT for line class codes for a specific office in Dallas was around \$350,000 of NRC and \$400- \$500 of recurring charge per switch per code.

MCI stated that the forward looking cost for line Class Code should be based on the weighted average of forward looking switching technologies that will be deployed in SWBT's network.

Staff Recommendation:

Staff finds that SWBT will meet this requirement if it establishes a forward-looking cost structure for line class codes. Staff notes that SWBT has agreed to provide the line class code option to a CLEC for customized routing. Staff finds that SWBT has agreed to share line class codes as needed by a CLEC to activate features and functionality as they currently exist on an unbundled switch.

Staff finds that the applicability and availability of line class codes for one-way optional EAS was not fully explored during the collaborative session. In principle, CLECs should be treated at parity with SWBT in that if a CLEC provides the same calling scope to its customers as the ILEC, that CLEC should not be required to pay for line class codes if the ILEC does not incur costs for the codes. However, Staff notes that this issue will be addressed in Docket No 20025, Complaint of Sage Telecom, Inc. Against Southwestern Bell Telephone Company regarding parity provisioning of One-way Optional Extended Area service. Therefore, Staff concludes that this recommendation, as it relates to the applicability and availability of line class codes for one-way optional EAS will be met if SWBT agrees to abide by the decision made in Docket No. 20025.

Staff is concerned with SWBT's position that provisioning of certain line class codes is not technically feasible. Staff recommends that SWBT shall provide additional information or evidence to show why it is technically not feasible to provide line class codes for certain functionality and features for unbundled switches, especially if SWBT has that capability in its retail operation.

Staff also recommends that SWBT develop a forward-looking cost structure for providing Line Class Codes for Commission approval.

CHECKLIST ITEM SEVEN: Has SWBT provided nondiscriminatory access to the following, pursuant to section 271(c)(2)(vii) and applicable rules promulgated by the FCC: (a) 911 and E911 services; (b) directory assistance services to allow the other telecommunications carrier's customers to obtain telephone numbers; and, (c) operator call completion services?

Commission Recommendation No. 1:

SWBT shall provide a compare file to each CLEC so the CLEC can verify the accuracy of 911 database information it has submitted with the actual entry by SWBT. Additionally, SWBT shall include a parity performance measure that would indicate the number of records that were entered incorrectly for its own customers, each CLEC's customers, and all CLEC customers. SWBT shall file these reports for a minimum of three months with the parties and the Commission staff to determine if parity performance violations have occurred. Until such determination is made SWBT has not met the burden of proof that it is indeed providing parity performance.

SWBT's Proposal:

In the collaborative work session held 9/16/98, SWBT reported that a compare file was provided to all facilities-based carriers on 6/26/98. (Tr. 1197) Additionally, SWBT agreed to:

- determine whether the compare file sent to facilities-based carriers on 6/26 was also sent to UNE carriers.
- investigate the possibility of creating a compare file for UNE carriers, if necessary, and resale carriers to compare their customers information with information in SWBT's 911 database.
- explore the option of allowing CLECs to not override current information existing in SWBT's 911 database.
- confirm whether 911 performance measures will be dealt with in the performance measure section of the collaborative process.

SWBT agreed to report back on these items via letter by 10/1/98.

SWBT proposed that performance measures related to 911 be considered in the performance measure section of the collaborative process. In its collaborative process affidavits, SWBT proposed, for CLECs providing service through resale and UNE loop and port combinations, a measurement for average time to clear errors defined as the average time it takes to clear an error after it is detected during the processing of the 911 database file. The clock would start upon receipt of the error file and end when the error is corrected. SWBT also recommended a measurement for average time required to update the 911 database which is defined as the average time to update the 911 database file. The clock starts when the data processing starts and ends when the data processing is complete.

Supplemental Information:

On October 20, 1998, SWBT delivered correspondence to the Commission's office indicating that its 911 database software vendor will make compare file capability available to all CLECs in the second quarter of 1999.

On October 29, 1998, SWBT delivered correspondence stating that 911 database listings are deleted from the 911 database and re-entered with new listing information provided by a CLEC. SWBT's position is that the deletion/re-entry process complies with NENA standards which state "the LSP responsible for establishing telephone service and billing records for the end user is also responsible for providing the ALI data to the 9-1-1 service provider."

CLECs' Comments:

During the work session held 9/16/98, AT&T and MCI stated that, without a compare capability, there is no way for a resale carrier or a UNE carrier to verify the accuracy of its 911 database listings and, therefore, SWBT is not in parity on this issue. (Tr. 1198, 1208) AT&T would like to see the error incident rate for SWBT customers. (Tr. 1205)

In comments filed before the work session was held, MCI and other CLECs requested a performance measure that tracks the time SWBT receives a TN file to the time SWBT returned a compare file into the CLEC's directory. AT&T requested SWBT to investigate establishing a measure to check resold orders and UNE loop port orders that are MSAG address valid but nonetheless erroneous against the existing record in the 911 database. MCI also requested a mechanism for percent database inaccuracy attributable to SWBT.

Staff Recommendation:

While SWBT successfully proposed a means for allowing UNE carriers and resale carriers to verify the accuracy of white page directory listings under Item VIII, SWBT did not propose a way to allow UNE carriers and resale carriers to verify the accuracy of 911 database listings. In fact, SWBT objected to each idea suggested by others in attendance at the work session to work toward parity verification of 911 database listings. Until SWBT provides CLECs the opportunity to verify accuracy of CLEC listings in the 911 and E911 database, the requirement for nondiscriminatory access to 911 and E911 services is not met.

SWBT's proposal to discuss 911 performance measures in the performance measure section of the collaborative process is acceptable.

Follow-Up:

No letter was filed by SWBT on 10/1/98.

To provide nondiscriminatory access to 911 and E911 service, SWBT must successfully address Recommendation No. 1. To successfully address Recommendation No. 1, SWBT must provide evidence that UNE carriers and resale carriers have the opportunity to verify accuracy of 911 listings entered by SWBT into the 911 database. Alternatively, if the opportunity to verify is not provided, SWBT may address Recommendation No. 1 by providing all CLECs the option to not override current information existing in SWBT's 911 database.

On October 20, 1998, SWBT delivered correspondence indicating its 911 software vendor anticipates providing "compare file" capability in the 2nd quarter of 1999.

Provision of compare files to resellers and UNE carriers must be verified.

Supplemental Staff Recommendation:

This Recommendation will be met when SWBT notifies the Commission that its processes have been amended to leave customer information unchanged in the 911 database when a customer chooses an alternative CLEC. SWBT's decision to obtain compare file capability from its software vendor is a significant step toward meeting Recommendation No. 1. However, a more fundamental issue is the deletion/re-entry of customer listing information. At the October 22, 1998 open meeting, the Commission expressed a strong preference for SWBT to NOT delete 911 customer listing information when a customer chooses an alternative local exchange company. If the compare file capability functions properly and SWBT modifies its process to retain unchanged customer listing information in the 911 database (when a customer chooses an alternative CLEC), Recommendation No. 1 will be met.

Commission Recommendation No. 2:

Pursuant to the Mega-Arbs, SWBT shall not remove customer data from the directory assistance (LIDB) database when a new customer is served through UNEs.

SWBT's Proposal:

SWBT interprets Recommendation No. 2 to mean that SWBT should not remove customer data from the directory assistance database and the LIDB database until a CLEC's order is processed. SWBT's proposals focus on closing the gap between processing a disconnect order and a new order so that customer information continues to exist in the directory assistance database and the LIDB database when a customer changes its choice of local service providers.

SWBT implemented a mechanized process change solution to its LIDB database system on July 1, 1998 to make certain that customers who convert from SWBT to a CLEC do not have their records dropped from the LIDB database before the CLEC order is processed. However, the solution only addressed conversion orders, not new orders. On 9/8/98, SWBT's system was updated to accommodate new customer service orders from a CLEC.

SWBT proposed to change its process of handling directory assistance customer information, by the end of January 1999, so that customer information is not dropped from the directory assistance database until a new order service request is received from a CLEC. Once an order is received from a CLEC, the existing data will be dropped from the database and information provided by the CLEC will be re-entered by SWBT.

SWBT agreed to file reply comments to the CLECs comments mentioned below within five days following the CLECs comments.

Supplemental Information:

On October 29, 1998, SWBT reported that it intends to continue to require CLECs to "populate the directory listing fields on a UNE service order" -- even if customer information is unchanged. The ordering requirement issue is currently being disputed in Docket No. 19295.

CLECs' Comments:

CLECs interpreted Recommendation No. 2 to mean that unchanged customer information should not be removed by SWBT from the directory assistance database and the LIDB database when a customer makes a change in its choice of local service provider.

CLECs appeared to be satisfied with SWBT's 7/1/98 process change for updating the LIDB database on conversion orders. CLECs had not yet had an opportunity to evaluate whether SWBT's 9/8/98 process change for updating the LIDB database for new customers works. The CLECs agreed to file, within 7 days, their evaluation of the LIDB database process change implemented by SWBT on 9/8/98. Specifically, CLECs agreed to address whether customer data is dropped from the LIDB database when a customer changes local service providers. On 9/28/98, AT&T filed comments indicating that AT&T's initial tests "indicated some success" with SWBT's 9/8/98. AT&T will continue testing.

AT&T pointed out that there is a fundamental disagreement on the retention of customer information. SWBT's interpretation of Recommendation No. 2 is that customer data must be retained in the directory assistance database until the CLEC's order is processed and customer data is then re-entered by SWBT into the directory assistance database. The CLEC's interpretation of Recommendation No. 2 is that customer data must be retained in the database when a customer elects to be served by a CLEC and that the CLEC should not have to create a new order and re-enter data which exists in the database.

The CLECs agreed to file comments, within 7 days, on the practical implications of SWBT's proposed new process and whether it will actually work. In comments filed by AT&T on 9/28/98, AT&T stated that it is "unable to opine" whether implementation of the LIRA system in January, 1999 will resolve the synchronization problem. The synchronization problem occurs when removal of a customer's information from the directory assistance database does not happen simultaneously with entry of the customer's information on behalf of a CLEC. During the gap, the database cannot provide directory assistance information on the customer's phone number.

Supplemental Information:

On November 9, 1998, MCI delivered correspondence reiterating its opposition to the deletion and reentry of customer information. MCI noted that residential trial customers have experienced a loss of access to directory assistance, loss of dial tone, and incorrect branding of calls placed to directory assistance and/or operator services.

Staff Recommendation:

The FCC deems the term "nondiscriminatory access" to mean both:

- nondiscrimination between and among carriers in rates, terms and conditions of access, and
- the ability of competing providers to obtain access that is at least equal in quality to that of the providing local exchange company. (FCC Second Report and Order, FCC 96-333, ¶ 101)

Staff agrees with the CLECs' interpretation of this Recommendation. Accordingly, customer information should not be removed by SWBT from the directory assistance database and the LIDB database when a customer makes a change in its choice of local service provider.

Follow-Up:

SWBT shall file a response indicating that customer information is not removed by SWBT from the directory assistance database and the LIDB database when a customer makes a change in its choice of local service provider.

Supplemental Recommendation:

SWBT shall notify the PUC when its processes are amended to leave customer information unchanged in the LIDB database and the directory assistance database when a customer chooses an alternative CLEC.

Commission Recommendation No. 3:

SWBT shall collaborate with the CLECs and Commission staff to create a procedure to establish non-discriminatory procedures for customers that have been won back.

SWBT's Proposal:

According to SWBT, when SWBT wins back a customer from a CLEC, SWBT's processes, with respect to the directory assistance and LIDB databases, are identical to the processes used when CLECs win a SWBT customer.

SWBT agreed to confirm by letter, within 7 calendar days, whether a winback customer from a facilities-based carrier, a UNE carrier or a reseller are treated as a disconnect and a new connect. Specifically, is CLEC customer information dropped from the LIDB database and the directory assistance database and re-entered by SWBT in winback situations, even when there is no change in directory listing information?

SWBT agreed to establish a LIDB users group and to provide notice to CLECs within 30 days of the first users group meeting.

Supplemental Information:

During the collaborative work session held September 16, 1998, SWBT offered to establish a LIDB database users group. On October 6, 1998, SWBT sent copies to ALJ Farroba of notice of the first LIDB Users Group.

In correspondence to ALJ Farroba on October 29, 1998, SWBT stated that it is changing its security administration so that the deletion and recreation of LIDB records will no longer be necessary in a winback situation or other subsequent conversions.

CLECs' Comments:

CLECs are interested in discussing winback issues in a broader context within the public interest section of the collaborative process.

Supplemental Information:

None

Staff Recommendation:

The FCC deems the term "nondiscriminatory access" to mean both:

- nondiscrimination between and among carriers in rates, terms and conditions of access, and
- the ability of competing providers to obtain access that is at least equal in quality to that of the providing local exchange company. (FCC Second Report and Order, FCC 96-333, ¶ 101)

SWBT is required under Recommendation No. 2 and the Mega-Arb decision to leave customer information in the directory assistance database and the LIDB database when a customer transfers its services from SWBT to a CLEC. SWBT has the same option in a winback situation.

Supplemental Staff Recommendation:

SWBT shall notify the PUC when its processes are amended to leave customer information unchanged in the LIDB database and the directory assistance database when a customer chooses an alternative CLEC.

Commission Recommendation No. 4:

In addition, SWBT has denied access to ILEC directory assistance listings claiming that the ILECs have not given SWBT permission to release their customer's information. At the hearing, SWBT stated that these listings would be released as soon as that permission was received. Tr. at 1055. SWBT and the participants shall coordinate their efforts to acquire the ILECs' permission through the use of a standard release.

SWBT's Proposal:

At the work session held 9/16/98, SWBT represented that all but 12 ILECs authorized SWBT to release directory assistance listings to CLECs before Recommendation No. 4 was presented to SWBT. On 9/24/98, SWBT submitted copies of letters recently sent by SWBT to non-authorizing ILECs in an effort to obtain authorization to release directory assistance listing information to CLECs.

SWBT and MCI agreed to draft a letter from the Commission (to be sent on Commission letterhead) to non-authorizing ILECs as well as a list of ILECs that have not authorized release of their directory assistance listings to CLECs. The letter was filed on 9/23/98. No comments were filed by interested persons.

Supplemental Information:

None

CLECs' Comments:

MCI is concerned that the release used by SWBT may contain inappropriate pricing data and may not be the kind of standard release contemplated by the Commission. (Tr. 1228)

MCI sent letters to non-authorizing ILECs to request authorization for SWBT to release directory assistance listings to CLECs. Several ILECs signed the release and, therefore, the number of non-authorizing ILECs is a number less than twelve.

Supplemental Information:

MCI's November 1, 1998 correspondence to Mr. Eric White, Assistant General Counsel, PUC, states that signed releases have been received from Industry Telephone Company, Lake Livingston Telephone Company and Southwest Arkansas Telephone Cooperative, Inc. MCI is currently receiving directory assistance listings directly from GTE/Contel and Sprint/United.

Staff Recommendation:

Met, but see follow-up below for Commission action to address this issue. SWBT successfully addressed Checklist Item Seven Recommendation No. 4.

Follow-Up:

ORA and OPD will seek Commission guidance on the text of a letter to non-authorizing ILECs requesting authorization for SWBT to provide nondiscriminatory access to directory listings to CLECs pursuant to FTA § 251(b)(3).

The Commission instructed Staff to secure the compliance of all non-authorizing ILECs by the November 4th Open Meeting.

Supplemental Staff Recommendation:

None.

Supplemental Information:

On November 2, 1998, the Legal Division faxed letters, requesting a signed authorization release, to the remaining ILECs which have not provided releases of directory assistance listing information to CLECs.

Supplemental Information:

On November 2, 1998, the Legal Division of the PUC faxed letters requesting a signed authorization release to the remaining ILECs which have not provided releases of directory assistance listing information to CLECs. Since then the Commission has received signed releases from all companies.

CHECKLIST ITEM EIGHT: Has SWBT provided white pages directory listings of customers of other telecommunications carrier's telephone exchange service, pursuant to section 271(c)(2)(B)(viii) of FTA96 and applicable rules promulgated by the FCC?

Commission Recommendation No. 1:

SWBT shall be required to provide CLEC resellers with the opportunity to review and correct white pages directory listings prior to the date white pages directory listings are published in telephone directories to sustain its burden of proof with regard to the nondiscriminatory access standard between and among carriers.

SWBT's Proposal:

SWBT will implement a new white pages directory listings application by January 1, 1999, that will allow SWBT to uniquely identify white pages directory listings associated with any CLEC, whether reseller or facilities-based, in its listings database--ALPS (Advanced Listing Process and Services System). The new application is called LIRA (Listing Information Real-Time Access). LIRA will enable SWBT to provide any CLEC the ability to review and correct white pages directory listings prior to a directory publication date.

During collaborative discussions, SWBT explained that LIRA is a database management system designed to manage data in the ALPS database. SWBT agreed to begin conversion of its current LSS management system to LIRA by September 1998. SWBT also agreed by October 1, 1998, to prepare an executive summary describing LIRA and the method and process by which CLECs may access verification reports, including fields and record layouts, as well as the directory correction process. By this deadline, SWBT will also provide samples of verification reports to aid in demonstrating how CLECs may access such reports. Test reports will be available from SWBT during the October/November 1998 timeframe. Actual verification reports will be available to CLECs beginning January 1, 1999, once the system is online.

As an interim solution, SWBT proposed submitting a galley (a camera-ready copy of what the directory listings will look like) to both resellers and facilities-based CLECs alike. Because the current system cannot differentiate between listings associated with a reseller and any other listings in the book, the galley will consist of a paper copy of all listings. CLECs may provide SWBT with corrections by directory publication close. To facilitate this process, SWBT agreed to send an accessible letter notifying CLECs of the opportunity to receive galleys prior to the LIRA conversion, as well as directory publication and close-of-business schedules.

CLECs' Comments:

CLECs raised concerns that they would not only need to see the verification reports in October 1998, but also the final product--delivery of the first published white pages listings under LIRA. CLECs also maintained that a follow-up meeting is needed so that CLECs may have the opportunity to comment on the LIRA system once they have reviewed the executive summary and sample verification reports. AT&T also raised the issues of cost implications for the verification reports and whether additional negotiations through individual interconnection agreements would be needed to access LIRA and ALPS.

Staff Recommendation and Follow-Up:

Although the first white pages directory listings under the new system won't be delivered until sometime in 1999 (SWBT agreed to file a letter in this procedure notifying Staff and CLECs when the first directory would be available), Staff sees no reason to wait until that time to approve SWBT's implementation under the new system. Staff finds SWBT's interim solution acceptable, and will look forward to implementation of the new LIRA system at the beginning of 1999.

Follow-up is necessary to verify proper functioning of the LIRA system. Staff agrees that a follow-up meeting will be helpful to get feedback on the LIRA system during the October/November timeframe.

SWBT's proposal, once implemented, will meet the standard for nondiscriminatory access required by the FTA. We recommend SWBT's proposal be accepted as a resolution of this issue.

Supplemental Staff Recommendation:

The LIRA database may be the subject of third-party testing. Staff will provide a report at the December 14, 1998 Open Meeting to indicate whether it will be tested.

Commission Recommendation No. 2:

SWBT shall allow CLECs to choose whether their white pages listings are interspersed with SWBT listings or whether they are separate from SWBT's listings.

SWBT's Proposal:

SWBT's implementation of the LIRA application, as described under No. 1, will enable all CLECs to choose whether white pages directory listings associated with their customers are interfiled with other listings in a directory or included in a separate section of a directory.

CLECs' Comments:

None.

Staff Recommendation:

SWBT's proposal, once implemented, will meet the standard for nondiscriminatory access required by the FTA. We recommend SWBT's proposal be accepted as a resolution of this issue.

Follow-Up:

Follow-up is necessary to verify proper functioning of the LIRA system as described under No. 1.

Supplemental Staff Recommendation:

The LIRA database may be the subject of third-party testing. Staff will provide a report at the December 14, 1998 Open Meeting to indicate whether it will be tested.

Commission Recommendation No. 3:

SWBT shall allow CLEC resellers the same options as facilities-based CLECs for distribution of white pages telephone directories.

SWBT's Proposal:

SWBT's implementation of the LIRA application, as described under No. 1, will enable all CLECs to choose whether to have SWBT deliver their subscribers' white pages directories directly to the CLEC in bulk from the printer based on a forecast provided by the CLEC, whereby the CLEC will make arrangements for the delivery, or have their directories delivered directly to their subscribers along with SWBT's annual mass delivery to its subscribers. In addition, any CLEC may choose to obtain directory listings from SWBT and produce its own directory.

CLECs' Comments:

None.

Staff Recommendation:

SWBT's proposal, once implemented, will meet the standard for nondiscriminatory access required by the FTA. We recommend SWBT's proposal be accepted as a resolution of this issue.

Follow-Up:

Follow-up is necessary to verify proper functioning of the LIRA system as described under No. 1.

Supplemental Staff Recommendation:

The LIRA database may be the subject of third-party testing. Staff will provide a report at the December 14, 1998 Open Meeting to indicate whether it will be tested.

Commission Recommendation No. 4:

SWBT shall institute a procedure to permit CLECs to adhere advertisements to the white pages directory.

SWBT's Proposal:

SWBT proposes two alternatives available to CLECs wishing to adhere advertisements to the white pages directory. First, by choosing bulk delivery, a CLEC may adhere its own tip-ons (advertisements adhered to directories) to completed directories that are delivered without the SWBT tip-ons. Second, also by bulk delivery, a CLEC may place its own cover on a signature book (the complete book without a cover). Should a CLEC choose this option, it could design and print its own directory cover, which could include advertisements.

CLECs' Comments:

During the collaborative process, AT&T raised the concern that SWBT tip-ons may be distributed to all customers, including a CLEC's customers, but tip-ons adhered by a CLEC may only be distributed to that CLEC's customers, not to those of SWBT. Currently, SWBT will not deliver a CLEC's white pages directories with the CLEC's tip-ons and/or covers to SWBT's customers. SWBT also does not provide for mass delivery should a CLEC choose to have its directories delivered in bulk so that it may attach tip-ons. Another CLEC commented that CLECs want the ability to choose both SWBT's mass delivery, so that its current end users may receive the directory, as well as bulk delivery to a specified location, so that it may have directories to deliver to new customers in the future.

Staff Recommendation:

This recommendation is met. Staff believes the proposals offered by SWBT provide parity.

In addition, Staff finds the CLEC request to have white pages directory listings delivered both through SWBT's mass delivery, as well as in bulk to a specified location, reasonable. SWBT's proposals meet the standard for nondiscriminatory access required by the FTA. We recommend SWBT's proposal be accepted.

CHECKLIST ITEM NINE: Has SWBT provided nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to section 271(c)(2)(B)(ix) of FTA96 and applicable rules promulgated by the FCC?

RECOMMENDATION: The Commission concludes that SWBT has satisfied the requirements of this checklist item with no further action.

CHECKLIST ITEM TEN: Has SWBT provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to section 271(c)(2)(B)(x) of FTA96 and applicable rules promulgated by the FCC?

RECOMMENDATION: The Commission concludes that SWBT has satisfied the requirements of this checklist item with no further action.

CHECKLIST ITEM ELEVEN: Has SWBT provided number portability, pursuant to section 271(c)(2)(B)(xi) of FTA96 and applicable rules promulgated by the FCC?

Commission Recommendation No. 1:

SWBT shall take corrective measures to minimize the manual intervention of its mechanized process in the provision of interim number portability (INP). SWBT shall provide at least three months of data beginning May 15, 1998, to this Commission and to the participants to ensure that CLEC customers do not lose service during the INP process.

SWBT's Proposal:

SWBT has taken several corrective steps to meet this Recommendation. First, SWBT programmed a jeopardy code into its systems to stop a conversion from happening in the event the coordinated conversion is not going to take place as scheduled. Second, SWBT has added single points of contact to insure that the proper person will be notified in order to address problems with conversion in a timely manner. Third, SWBT implemented two performance measures: the first will measure premature disconnects (where SWBT cuts over before the coordinated conversion time), and the second will measure conversions that did not take place in a timely manner. Fourth, SWBT has established the LNP operations forum for all CLECs, scheduled for September 14 and 15. As Mr. Fleming stated in the collaborative process: "[W]e want to sit down and discuss preorder, order and provisioning processes associated with LNP processes so that we can identify any kind of land mines or any kind of issues that we've seen up to this point and also get our customers' perspectives on how that process is working." Finally, SWBT is providing the CLECs with written information on common issues that arise in INP. That document is being channeled through the Network Operations Team of the Southwest Regional LNP Steering Committee (previously chaired by Liz Jones and currently chaired by Tom Hunter).

Supplemental Information:

SWBT filed follow-up information on September 11, 23, and October 2, 1998. SWBT provided information on INP conversions for three months beginning May 15, 1998. The October 2, 1998 letter contains procedures for transitioning from INP to LNP.

CLECs' Comments:

MCI acknowledged that this process has improved since the 271 hearing in April. Prior to the 271 hearing, SWBT had missed the coordinated conversion time (resulting in a loss of service to the customer) in 20 out of 80 INP cutovers. Since the hearing, SWBT has missed the coordinated conversion time in approximately 4 out of 80 INP cutovers. ChoiceCom had a couple of instances where they had a problem with cutovers, but reported that SWBT had been very receptive and responsive to correcting the problems.

Staff Recommendation and Follow-Up:

SWBT agreed to provide Staff with information on the past three months of coordinated conversions, including how many have taken place, how many INP cuts have resulted in a loss of service, as well as the underlying data. Staff further requested that the written information being channeled through the Network Operations Team also be included in SWBT's CLEC handbook and on the website. Staff is encouraged by SWBT's report in the collaborative process that in the past two months, SWBT is close to a 100 percent success rate on cutovers. Although follow-up needs to be done on this issue to document the representations made by SWBT, Staff believes that SWBT's response to this Recommendation has been excellent.

Supplemental Staff Recommendation:

This recommendation will be met if SWBT agrees to the following:

- 1. Within 30 days, SWBT shall post the information relating to conversion from INP to LNP on its website so that it is available to all CLEC customers; and*
- 2. By December 1, 1998, SWBT shall provide an explanation as to why the INP conversions in South Texas during the weeks of 5/29/98 and 6/5/98 resulted in high percentages of service-affecting problems. (106 out of 125 conversions for 5/29/98 and 106 out of 137 for 6/5/98 were reported as having service-affecting problems.)*

Commission Recommendation No. 2:

The Commission has concerns relating to SWBT's delayed implementation of permanent number portability (PNP) as well. Delays in the implementation of PNP place competitors at a disadvantage, because interim solutions do not provide parity; staff, therefore, recommends that some measure be taken to address the potential for further delays in PNP implementation and the consequent detrimental effect on competition and that this issue be explored in more detail in the collaborative process.

SWBT's Proposal:

SWBT provided a document discussing the various phases of LNP rollout (it is attached). SWBT indicated that it has successfully ported 12,000 numbers and is on schedule for Phases IV and V, which include Austin, San Antonio and El Paso.

CLECs' Comments:

No CLEC comments on this issue, but ChoiceCom sought to clarify how orders would be passed in the interim between INP and LNP.

Supplemental Information:

Time Warner and ChoiceCom are experiencing customer-affecting problems with PNP in the Austin and San Antonio areas. SWBT is currently working with them to address the problems.

Staff Recommendation and Follow-Up:

Staff believes this Recommendation has been met and believes follow-up should be necessary only in the event SWBT foresees a need to request delayed implementation of PNP in Phases IV or V.

Supplemental Staff Recommendation:

On November 12, 1998, Time Warner filed a letter raising concerns relating to deployment of PNP in Austin. On November 13, 1998, ChoiceCom filed a letter also raising concerns relating to deployment of PNP in Austin and San Antonio. Time Warner and ChoiceCom have experienced problems which have created customer dissatisfaction, and may have resulted in loss of customers. Staff believes this issue needs to be examined further and any problems in deployment of PNP need to be addressed before SWBT is in compliance with Checklist Item Eleven.

SWBT shall file on December 1, 1998, an explanation of what is occurring in relation to PNP in the Austin and San Antonio areas, how the problems are being addressed, timelines for correcting problems, and assurances that the problems will not recur. SWBT shall also file information, as has been filed in relation to INP, on the past three months of coordinated conversions, including how many have taken place, how many PNP cuts have resulted in a loss of service, as well as the underlying data.

Commission Recommendation No. 3:

SWBT shall set forth its policy on route indexing and other forms of INP, including the terms and conditions upon which it is offered.

SWBT's Proposal:

SWBT (apparently for the first time) indicated that route indexing will be provided subject to recovery of developmental costs from the CLEC requesting route indexing. SWBT did not, however, specify the precise terms and conditions upon which it will be offered.

Supplemental Information:

On October 2, 1998, SWBT filed a letter stating that AT&T had not contacted SWBT to discuss whether it would pursue route indexing.

CLECs' Comments:

AT&T believes it is counter to the Mega-Arb award to require AT&T to pay for SWBT's developmental costs for route indexing, inasmuch as the Mega-Arb provided that each party shall pay its own costs of developing INP.

Staff Recommendation and Follow-Up:

AT&T is going to report back within two weeks as to whether they want to pursue route indexing. In the event AT&T wants to pursue route indexing, AT&T will initiate discussions with SWBT. Further discussion of this issue should take place at a future collaborative session.

Supplemental Staff Recommendation:

Met. Staff is not aware of any information from AT&T concerning the status of its interest in INP route indexing. Because it therefore appears that no CLEC is interested in pursuing route indexing, this recommendation has been met.

Commission Recommendation No. 4:

SWBT shall demonstrate that it has an approved tariff providing for PNP.

SWBT'S Proposal:

SWBT indicated that it has an interim tariff on file with the FCC that is subject to true-up at a later time.

CLECs' Comments:

There was no CLEC comment on this issue, except for pointing out that SWBT has an interim query tariff that is subject to true-up at a later time.

Staff Recommendation and Follow-Up:

Staff believes this Recommendation has been met.

CHECKLIST ITEM TWELVE: Has SWBT provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of FTA96, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

Commission Recommendation No. 1:

In areas where SWBT offers optional two-way extended area service (EAS) arrangements, CLECs should have the opportunity to negotiate the interconnection rates, terms, and conditions for similar two-way arrangements with SWBT. SWBT shall be required to complete calls placed by its customers to a CLEC's two-way EAS customers as local calls provided SWBT and the CLEC have negotiated appropriate compensation for such traffic.

SWBT'S Proposal:

SWBT stated that it does offer CLECs the opportunity to negotiate the interconnection rates, terms, and conditions for similar two-way arrangements in areas where SWBT offers optional two-way EAS arrangements. In such arrangements SWBT does complete the calls to the retail customers of the CLEC customers as toll free and there is compensation associated with that. Also, since the hearing, SWBT and e.spire have signed an interconnection agreement including compensation for a two-way arrangement. The rates in the interconnection agreements for these arrangements are the rates determined by the Commission in the second mega-arbitration. SWBT is willing to extend the same terms and arrangements to other interested CLECs.

CLECs' Comments:

e.spire confirmed that it had entered into an interconnection agreement including compensation for a two-way arrangement with SWBT, and that its customers no longer have to dial 1+ and are not assessed toll charges. However, e.spire stated that the dispute was over whether e.spire's original interconnection agreement language actually covered this type of call. As a business decision e.spire did go ahead and sign the additional agreement so that the calls would not be toll calls.

Staff Recommendation and Follow-Up:

This recommendation has been **met**: SWBT is willing to extend the same terms and arrangements to other interested CLECs for similar two-way arrangements in areas where SWBT offers optional two-way EAS arrangements. No follow-up is necessary.

Commission Recommendation No. 2:

In SWBT's intraLATA dialing parity docket, Commission staff had requested that SWBT be required to file "written procedures regarding carrier-neutral, administrative and other processes it will use to implement customer selection of another intraLATA toll carrier and to provide intraLATA toll dialing parity." At this time, however, SWBT has not yet provided the Commission with any guidelines or scripts SWBT plans to use for intraLATA PIC (primary interexchange carrier) selection. SWBT has merely stated that it plans to use the same processes that have been in place for interLATA PICs, and that it has no additional details of its carrier selection process for intraLATA PIC. This issue needs to be resolved before SWBT can satisfy this checklist item.

SWBT's Proposal:

CLECs' Comments:

Staff Recommendation and Follow-Up:

Currently under Docket No. 17000, SWBT has complied with Commission orders to file additional details of its carrier selection process for intraLATA PIC. Under the procedural schedule set forth in Order No. 5, intervenors may file comments on SWBT's filing by September 9, 1998. The ORA recommendation is due by September 16, 1998.

Staff recommends that Docket No. 17000 continue to be monitored and once resolution is reached in that docket, this recommendation will be satisfied.

Supplemental Staff Recommendation:

SWBT will meet this recommendation once Docket No. 17000 is completed.

ITEM THIRTEEN: Has SWBT provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of FTA96 pursuant to section 271(c)(2)(B)(xiii), and applicable rules promulgated by the FCC?

Commission Recommendation No. 1:

SWBT shall be required to abide by the Commission's ruling on compensation for internet service provider (ISP) traffic in Docket No. 18082 with respect to other CLECs. ISP traffic shall be classified as local traffic and compensated at the local interconnection rates contained in the specific SWBT-CLEC agreement, unless the agreement specifically classifies ISP traffic as non-local traffic. SWBT's obligation to pay reciprocal compensation should not be conditioned on any terms, nor should the CLECs be required to seek arbitration to receive such compensation.

SWBT's Proposal:

SWBT stated that it had fully implemented this recommendation. By September 17th (the date of the work session) SWBT commented that it had paid reciprocal compensation in the amount of approximately \$14 million, of which approximately \$11 million was related to calls destined to an ISP. CLECs are not required to seek arbitration or a commission order in order to obtain compensation on ISP traffic. Unless a contract specifically states otherwise, SWBT automatically provides summary usage records to CLECs which include ISP traffic to enable CLECs to bill SWBT for termination of ISP traffic. Furthermore, the Comprehensive Interconnection Proposal discussed in the context of the public interest recommendations contains language that treats ISP traffic as local for purposes of reciprocal compensation. While SWBT was not averse to incorporating this information in an accessible letter, it did not believe that such an action would benefit potential CLECs because accessible letters are sent to CLECs that have contracts in place with SWBT or are in the process of negotiating contracts with SWBT.

CLECs' Comments:

CLECs expressed concern that information regarding the Commission's ruling on ISP traffic and SWBT's compliance on this issue may not be available to CLECs that are on the verge of beginning negotiations discussions with SWBT or are in the process of negotiating contracts with SWBT. Westel believed that without easy access to this information, smaller CLECs will be disadvantaged. AT&T suggested that if SWBT is not willing to release the information regarding the Commission's ruling through an accessible letter, SWBT should place the information, at a minimum, on the section of the website which is not password-protected and is intended for potential CLECs.

Staff Recommendation:

Met. As SWBT has indicated in its proposal, it should continue to compensate ISP traffic at local interconnection rates contained in the specific SWBT-CLEC interconnection agreement, unless the agreement specifically states otherwise. CLECs shall not be required to seek arbitration or a commission order in order to obtain compensation on ISP traffic. SWBT shall continue to automatically provide summary usage records to CLECs which include ISP traffic to enable CLECs to bill SWBT for

termination of ISP traffic. The issue of notifying CLECs of Commission rulings in arbitration proceedings is being addressed in the public interest section.

Commission Recommendation No. 2:

Appropriate traffic records shall be exchanged between SWBT and CLECs to facilitate the payment of mutual compensation for calls.

SWBT's Proposal:

SWBT stated that as of September 17, 1998, it has exchanged traffic with approximately 30 companies. While SWBT has developed originating traffic records for all these companies, it has sent the records to 12 companies that have provided SWBT with information on the place to send the records to. For the remaining companies, SWBT is currently maintaining records and will send the records to these companies as soon as it is informed of the appropriate location to which the records should be sent. SWBT has received records from 7 of the 23 companies that are terminating calls on SWBT's network. The process of exchanging billing records requires each carrier to develop monthly summary of originating usage records (using the individual call records). The summary of usage records are then provided to the terminating carrier for purposes of billing the originating carrier. SWBT commented that the vast majority of the calls currently terminate on the facilities of pure facilities-based carriers and can be readily handled by this process. For the subset of calls that terminate on the unbundled local switch or are intended for ported numbers, SWBT indicated that it is committed to developing an industry solution in collaboration with interested CLECs and will communicate the solution to other CLECs through the accessible letter. SWBT also expressed concern that AT&T may not be developing and maintaining records for calls that are terminated on SWBT's network.

CLECs' Comments:

AT&T stated that it has been working collaboratively with SWBT to develop appropriate billing records for the exchange of traffic and is committed to participating in developing an industry solution on the issue of billing records for termination of calls involving UNEs and ported numbers. AT&T anticipated a significant increase in the number of calls involving UNEs in the future once all the other issues related to the use of UNEs are successfully resolved. AT&T believed that the use of summary usage records will work as long as there are no UNEs or ported numbers within an entire NPA-NXX on the terminating end of the call. MCI stated that it is in the process of getting information on field format descriptions from SWBT so that it can develop appropriate summary usage records. AT&T responded in a letter dated October 6, 1998 to SWBT's claim that it has failed to maintain records by stating that AT&T and SWBT have negotiated to use the percent local usage (PLU) method to settle compensation payments on an interim basis through April 1999 at which time AT&T would implement the capability to deliver 9299 records to SWBT. AT&T is currently investigating the extent and amount of traffic terminated by its Digital Link customers on SWBT's network since March 1998. AT&T refuted SWBT's representation that SWBT has been sending 9299 summary usage records to AT&T. The parties were scheduled to discuss the matter in a conference call on October 9, 1998.

MCI also suggested that a collaborative process should be established to ensure that the CLECs are able to provide input in any modifications that SWBT seeks to make to its data exchange binder and other SWBT documents used by CLECs. TEXATEL commented that the current method of developing and exchanging billing records will become extraordinarily cumbersome as the number of carriers involved in the transport and termination of calls increases and will have to be revisited in the future.

Staff Recommendation:

Staff believes that implementation of this recommendation requires compliance by both SWBT and CLECs. Staff is encouraged by actions taken by SWBT and CLECs on this recommendation. Staff finds that use of summary usage records appears to work as a method of exchange billing records and is appropriate for the termination of calls involving facilities owned or leased by carriers on the terminating end of the calls. However, with respect to calls involving the use of UNEs or ported numbers, there is a need for SWBT and the CLECs to develop an industry solution which is then made publicly available by SWBT to all CLECs through an accessible letter. SWBT must also work collaboratively with CLECs so that CLECs have the necessary information to develop appropriate billing records and CLECs have the ability to provide input to modifications to documents such as the data exchange binder. Finally, CLECs and SWBT must provide each other with the necessary contact information so that billing records can be sent to the appropriate location.

Completion of this recommendation is contingent upon the resolution of the billing issues which overlap with the billing issues currently being addressed as part of the OSS Recommendations. This recommendation is met if the follow-up delineated below occurs, and the overlapping issues awaiting resolution in the OSS Recommendations are met.

Follow-Up:

- 1) SWBT and CLECs shall exchange summary usage records for calls terminated on each other's facilities when the terminating carrier is a pure-facility based carrier and provide the Commission with information to that effect.
- 2) SWBT shall work with the CLECs on the issue of reciprocal compensation for UNEs and ported numbers and provide the Commission with a status report on the progress of these discussions.
- 3) SWBT shall file a letter indicating a date prior to November 15, 1998 has been set for a meeting with all interested CLECs to develop an industry solution with respect to calls involving the use of UNEs or ported numbers.

Supplemental Staff Recommendation:

In a letter dated November 12, 1998, SWBT indicated that it has held meetings with interested CLECs and ILECs and further discussions are planned in an effort to develop an industry wide solution with respect to calls involving the use of UNEs or ported numbers. In the interim period until an industry wide solution has been developed, bill and keep should be the compensation method for calls involving the use of UNEs or ported numbers.

Commission Recommendation No. 3:

Compensation for expanded local calling service (ELCS) traffic shall be consistent with the Commission's decision in the mega-arbitration. EAS traffic, including ELCS traffic, shall be subject to the lesser of the cost-based interconnection rates or the interconnection rates in effect between SWBT and other incumbent LECs for such traffic.

SWBT's Proposal:

SWBT stated that it had met this recommendation in that it is in full compliance with the Commission's mega-arbitration awards. Currently, SWBT applies the local interconnection rates to traffic within a mandatory EAS area, including ELCS area, created between two or more SWBT exchanges and the cost-based mandatory EAS rates to traffic within a mandatory EAS area, including ELCS area, created between a SWBT exchange and the exchanges of independent ILECs. SWBT indicated that it is willing to modify its existing interconnection arrangements and apply local interconnection rates in lieu of EAS rates to traffic within a mandatory EAS area, including ELCS area, created between SWBT exchanges and exchanges of independent ILECs. SWBT stated that it would be willing to communicate its proposal through an accessible letter to CLECs upon Commission's review and approval of this proposal as part of this collaborative process. While SWBT acknowledged that it had bill and keep arrangements with other ILECs for ELCS traffic, it posited that the mega-arbitration awards required it to apply cost-based interconnection rates to EAS and ELCS traffic once costs-based rates were established (DPL Item 1198 in Phase II of Mega Arbitrations). SWBT, therefore, found the latter part of this recommendation to be inconsistent with the arbitration awards. SWBT also referred to the obligations placed by PURA on ILECs with respect to recovery of cost and revenues associated with ELCS traffic as a reason for not extending the bill and keep arrangements to CLECs.

CLECs' Comments:

TEXALTEL, AT&T and MCI-WorldCom commented that, to the extent SWBT has bill and keep arrangements with other ILECs for ELCS traffic, SWBT has failed to comply with this recommendation and has engaged in discriminatory behavior by not extending to CLECs the option to enter into a similar arrangement for ELCS traffic.

Staff Recommendation:

This recommendation has not been met. Staff is encouraged by SWBT's proposal regarding the application of uniform local interconnection rates to all traffic within mandatory EAS including ELCS calling area. However, Staff agrees with TEXALTEL, AT&T and MCI-WorldCom that SWBT has not met this recommendation if it does not provide CLECs with the option to enter into a bill and keep arrangement similar to the arrangement that SWBT has with other ILECs for ELCS traffic. Staff disagrees with SWBT's contention that there is no basis for the latter part of the recommendation in the arbitration awards. Staff notes that the Commission's first mega-arbitration award issued in November 1996 delineated two options on EAS compensation rates for CLECs. Specifically, it states that "...Until cost-based interconnection rates are established for EAS traffic, the interconnection rates in effect between SWBT and other incumbent LECs for such traffic shall apply. When cost-based interconnection rates for EAS are established, LSP traffic in SWBT's EAS areas shall be subject to the lesser of the cost-based interconnection rates established in this proceeding or the interconnection rates in effect between

SWBT and other incumbent LECs for such traffic....” The Commission’s second mega-arbitration award on rates issued in December 1997 established cost-based interconnection rates for EAS traffic. ELCS traffic is a form of mandatory EAS traffic and is therefore subject to the two options delineated in the Commission’s first mega-arbitration award.

Follow-up: This recommendation is met if the follow-up delineated below occurs:

In addition to SWBT’s proposal to apply local interconnection rates to all traffic within the mandatory EAS traffic including ELCS traffic, SWBT shall offer CLECs the option to enter into interconnection arrangements similar to the arrangements it has with other ILECs for traffic within mandatory EAS including ELCS calling area. As soon as possible, SWBT should file a report that indicates compliance with the latter part of the recommendation.

Supplemental Staff Recommendation:

SWBT has not notified Staff as to whether it has taken action to meet this Recommendation. SWBT should indicate compliance with Staff’s recommendation in its December 1, 1998 filing and affidavits.

ITEM FOURTEEN: Has SWBT provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of FTA96, pursuant to 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

Commission Recommendation No. 1:

SWBT shall develop procedures to assure that the provision of voice mail and other unregulated services provided by a SWBT affiliate will continue uninterrupted during the transition from one local telephone provider to another. This process will necessitate coordination with SWBT's voice mail subsidiary to assure that voice mail is not disconnected, unless a CLEC or customer requests disconnection of the voice mail service. Should the voice mail subsidiary find this process unreasonable, the subsidiary can always verify with the customer or CLEC the need to continue the provision of voice mail, without undue harm to the subsidiary.

SWBT's Proposal:

SWBT and its voice mail affiliate Southwestern Bell Messaging Services Incorporated (SMSI) have implemented procedures that allow SMSI's voice mail product to remain working during the conversion of a SWBT end use subscriber's local telephone service to a CLEC utilizing resale. The process requires an entry on a conversion order that will keep the service activated during the transition from SWBT to the reseller. The SWBT-provided discretionary services of call forwarding and customer alerting remain active, and the subsidiary sets up a new billing account establishing direct billing arrangements between the customer and SMSI. According to an accessible letter dated June 29, 1998, and sent to all participating CLECs, the program was to be made available by July 1, 1998.

CLECs' Comments:

While SWBT appears to have met this recommendation on "resale" through its actions and those of its affiliate SMSI, the customer is still billed directly by SMSI and the CLEC would prefer being billed directly itself. Apparently CLECs must negotiate directly with SMSI, and there is a concern that SMSI might not be willing to work directly with CLECs. Additionally, there are no procedures in place for interruption of affiliate services, such as voice mail, with regard to the provisioning of unbundled network elements (e.g., loop and port) by SWBT to a CLEC. Of primary concern is the provision of service using the "switch-port" element and other combined UNE elements in conjunction with a voice mail product provided by SMSI and the lack of any procedures to seamlessly transfer that service over to the CLEC.

Staff Recommendation:

Met. Staff concludes that the provision of an unregulated voice mail service in conjunction with unbundled network elements is clearly a separate matter from the "resale" issue that is the subject of this recommendation. Staff notes that voice mail, for example, is a competitive service and a facilities-based CLEC has the option of making arrangements with numerous providers. Additionally, although there may be some degree of concern with regard to a facilities-based CLEC/SMSI relationship, it is not an issue that should be addressed as part of this Checklist Item addressing "resale" issues.

Regarding the resale issue, the "subscriber" is clearly experiencing a beneficial transition under the proposal as implemented by SWBT thereby eliminating a barrier that may have caused some degree of competitive harm. SMSI's business practices concerning direct-billing customers or indirectly billing through CLECs is a different issue. Therefore, Staff is of the opinion that this recommendation has been met for the provision of uninterrupted voice mail service in conjunction with the transfer of a "resale" customer to a competitive provider. Moreover, no party could come up with services other than voice mail where the disconnection issue is a problem.

To the extent that provision of service using the "switch-port" element and other combined UNE elements in conjunction with a voice mail product provided by SMSI may need to be addressed to ascertain whether procedures are in place to assure seamless transfer of that service over to the CLEC, that issue is more appropriately addressed under the public interest recommendations. Likewise for the issue of SMSI's business practices concerning direct-billing customers or indirectly billing through CLECs.

Follow-up:

No follow-up necessary.

Commission Recommendation No. 2:

SWBT shall revise its procedures to ensure that all promotions of its telecommunications services are done only after adequate notification has been provided to CLECs. Adequate notification includes the provision of notice, at least thirty days in advance of the proposed implementation date for any promotion. Additionally, SWBT shall communicate with all its CLEC customers to obtain information indicating which department or principal should receive promotional material. This would ensure the timely receipt of information provided by SWBT to the department that is required to act on behalf of the CLEC for such promotions. Finally, SWBT shall provide promotional material to all CLECs in a consistent manner, regardless of whether they are purchasing resold services as a result of an interconnection agreement or tariff.

SWBT's Proposal:

SWBT has indicated that it has procedures in place advising CLECs 30 days in advance of any promotion of services and has established procedures to consistently notify all CLECs of all promotions, new services, discontinuance of products and services, regardless of whether or not they purchase resold services via tariff or as part of an interconnection agreement. The "accessible-letter" is used for this purpose. SWBT stated that follow-up letters are provided if any changes occur with the original notification. In addition, SWBT has indicated notification can be made via electronic mail, paper mail or both at the request of the CLEC. SWBT also stated that they do in fact, through their account managers, keep track of the appropriate CLEC representatives and addresses to which notification should be sent. Apparently, in order to avoid confusion, separate OSS "accessible-letters" are issued on OSS matters.

CLECs' Comments:

CLECs indicated that, the extent of any change from existing practices and the effectiveness of those changes is yet to be determined. There was also an expressed concern about separate notification established for those CLECs that have established an OSS connection, but the issue appeared to have been resolved.

Staff Recommendation:

Staff believes that the requirements of this recommendation have been met.

Follow-Up:

No follow-up necessary.

Commission Recommendation No. 3:

The Commission agrees that most of the rulings related to customer specific contracts must be decided during the docketed proceeding. However, the FCC determined in its decision in Bell South/South Carolina, that an RBOC must provide customer specific contracts for resale at a wholesale discount in order to meet this checklist item. To the extent SWBT wants to provide proof that it is meeting this checklist item, SWBT shall change its policy to reflect compliance with the FCC's decision.

SWBT's Proposal:

SWBT has stated that the issue of the resale of existing contracts is the subject of a dispute between SWBT and another party, KMC Telecom. This dispute has been presented to the Commission for resolution in Docket No. 17759. SWBT stated that it will comply with the Commission's decision in the KMC proceeding and will apply it "generally" to all CLECs with whom a resale agreement has been consummated, subject to appeal. Additionally, SWBT is offering existing contracts as available for resale at a 21.6% discount, subject to true-up according to the outcome of the docketed proceeding. This would include term and volume discounts as well as "individual case basis" (ICB) contracts. Additionally, termination penalties would not apply to contracts that are transferred for the purpose of resale involving a CLEC. SWBT has also stated that they will communicate the final results of Docket No. 17759 in an "accessible-letter." The present proposal for existing contracts is also part of the comprehensive interconnection proposal presented by SWBT.

CLECs' Comments:

CLECs were concerned that SWBT would not change its policy to reflect compliance with the FCC's decision and modify its generic interconnection agreement. SWBT provided assurances that appear to satisfy the CLEC position.

Staff Recommendation:

Met as detailed in SWBT's proposal. SWBT provided assurances that appear to satisfy the CLEC position. SWBT appears to have satisfied this recommendation because SWBT is offering existing contracts as available for resale at a 21.6% discount, subject to true-up according to the outcome of the docketed proceeding, including term and volume discounts as well as "individual case basis" (ICB) contracts. Additionally, termination penalties would not apply to contracts that are transferred for the purpose of resale involving a CLEC. And, SWBT stated that it will comply with the Commission's decision in the KMC proceeding and will apply it "generally" to all CLECs with whom a resale agreement has been consummated, subject to appeal.

Follow-Up:

No follow-up is necessary.

Commission Recommendation No. 4:

At the hearing, SWBT indicated it would provide a discount on ALL promotions, regardless of duration, e.g., 30-day promotions. SWBT shall provide documentation of such.

SWBT's Proposal:

SWBT stated that it is in compliance with the Commission mega arbitration award, in that it makes discounts available in all situations where a promotion is 90 days or greater, in addition to providing promotions of less than 90 days at the promotional rate. SWBT believes that its promotional discount practices are consistent with the Federal Telecommunications Act. Whether SWBT miscommunicated its position at the hearing, SWBT's position is that it will not honor wholesale discounts on all promotions, regardless of duration.

CLECs' Comments:

CLECs representatives are somewhat disappointed at the reversal in SWBT's position from that taken during the 271 hearing. AT&T noted that, for the most part, promotions are for less than 90 days and would therefore only be available at the promotional rate. CLECs further noted that the FTA does not prohibit SWBT from applying a wholesale discount to a promotion of less than 90 days. CLECs also noted that a possible loop hole exists in that SWBT could extend a promotion for a period beyond 90 days and would have avoided applying the wholesale discount for the first 90 days of the "extended" promotional period.

Staff Recommendation:

Staff notes that because SWBT is stating that it may have miscommunicated its position at the hearing, and that SWBT's position is that it will not honor wholesale discounts on all promotions, regardless of duration, this recommendation cannot be met as written. Staff believes that because SWBT is no longer offering to provide a discount on ALL promotions, regardless of duration, e.g., 30-day promotions, this recommendation is now moot.

Although "gaming" could happen, SWBT has indicated that for the most part, promotions tend to be less than 90 days. Additionally, any gaming of the system, i.e., extending an 80-day promotion to 100 days, would conceivably result in a complaint being filed against SWBT which would result in a proceeding separate and apart from this proceeding if parties could not come up with a negotiated accommodation.

Follow-Up:

No follow-up necessary.

PERFORMANCE MEASURES

Commission Recommendation No. 1:

The Commission recommends that the concept of broad, outcome-based performance measures be explored for interconnection, UNEs, and resale.

SWBT's Proposal:

SWBT stated that the performance measures contained in the liquidated damages portion of the AT&T/MCI interconnection agreement should be the starting point for determining the broad outcome-based performance measures. SWBT also stated that some of the measures that are contained in the existing AT&T interconnection agreement may need to be deleted and some new measures that are going to be established during the collaborative process may need to be added. The criterion for including a measure under broad outcome-based category is that (a) it should be end-use customer affecting, and (b) it should independent and a final outcome for the activity as related to interconnection, UNE and Resale.

CLECs' Comments:

AT&T stated that all measures that are contained in the liquidated damages section of its interconnection agreement with SWBT should be included as broad outcome-based measure, and new measures should also be included in that list based on the criteria as stated by SWBT. MCI and WorldCom stated that all measures that are contained in the LCUG proposal should be considered broad outcome-based measures.

Staff Recommendation:

Needs further review by Staff once pleadings are filed.

Staff generally concurs with SWBT's stated criterion for categorizing a measure into broad outcome-based group. This concurrence is based on Staff's determination that end-use customer affecting needs to include measures that directly or indirectly affect end-use customers. For example, if a collocation space is not available on time, a CLEC's customer is unable to obtain facilities-based services from the CLEC. Staff should be able to make a recommendation on this issue after receipt and review of the September 21, 1998 documents.

Follow-Up:

CLECs and SWBT were asked to file, by September 21, 1998, documents stating which measures on SWBT's comprehensive performance measure list should fit under this recommendation.

Supplemental Staff Recommendation:

After analysis of the issue and review of the proposals of SWBT and the participants, Staff recommends the broad, outcome-based performance measures shown in Attachment B.